FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6182 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

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Shri S.A.Pawar for the petitioners

Ms.V.Mhaispurkar AGP for
Respondent No.2.

Coram : R.S.Mohite,J

Date : 23.11.2005.

PC

1. Advocate for Respondent No.1 absent. By this Writ petition the petitioners who are Co-operative Society and a Special Recovery officer seek to challenge inter-locutory orders passed by the Divisional Joint Registrar, Co-operative Societies in Revision Application no.311/2004. By the first interlocutory order the Divisional Joint Registrar, Co-operative Societies admitted the revision on 28.6.2004 and

directed to maintain status-quo. By the 2nd order dated 20.7.2004 the Divisional Joint Registrar,Co-operative Societies directed Special Recovery Officer to open the premises and handover the possession of shop premises to the applicant. He further directed that attachment will be continued. Respondent no.1 was restrained from creating third party interest till further orders.

2. It is contended on behalf of the petitioner that the order directing the return of the property to respondent no.1 was bad in law as the flat in question had already been sold in recovery proceedings to one Parmeshwar S.Swamy who was the auction bidder. It was contended that the flat was awarded to Mr.Parmeshwar S.Swamy on 6.4.2004 in a public auction and the same was confirmed by the higher authorities on 25.5.2004. However, when the

possession was sought to be taken, it was found that respondent had put his lock. With the help of the police, possession was taken under a panchanama and the key was handed over to the Chairman of the petitioner on behalf of the auction purchaser.

3. It is admitted by the petitioner that in so far as the dues to the society are concerned, the full amount has already been recovered. In my view, the grievance if any, does not survive. In any case, the parties can place full facts before the Revisional authority and seek vacation of the order if such facts were not earlier placed before the revisional authority.

4. In the circumstances, I am not inclined to interfere in writ jurisdiction under Article 227 of the Constitution of India. Petition is rejected.

(R.S.Mohite,J)